

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA**

MARK A. KOLAKOWSKI

No. 2:21-cv-574

Plaintiff,

v.

JURY TRIAL DEMANDED

THE WASHINGTON HOSPITAL D/B/A
WASHINGTON HEALTH SYSTEM

Defendant.

PLAINTIFF'S

EXHIBIT NO. 1



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October 30, 2020

**Via Certified Mail, Regular U.S. Mail and
Via email: mark.kolakowski@yahoo.com**

Mark A. Kolakowski
375 Center Street
Baden, PA 15005

Dear Mr. Kolakowski:

Please be advised that I represent the Washington Health System (hereinafter "the Hospital"). I have been advised that you were previously employed by the Hospital briefly, and following the termination of your employment you have engaged in, and may be currently engaging in a series of acts that have no legitimate purpose, including the making of false and slanderous statements that affect the good name and reputation of the Hospital, its Police Chief, and its police department.

Specifically, on or about October 20, 2020 you spoke to Jeffrey D. Besong, Sr., the Chief of Police at Point Park University Police Department in Pittsburgh and made numerous false statements to him about the Hospital, its Police Department and its Chief of Police, Bernard D. Merrick.

Specifically, Mr. Besong has advised the Hospital that for a period of approximately two (2) weeks you placed calls to him, but he did not answer or return your calls. When he finally answered your call on October 20th you made inquiries about the work history of Mr. Merrick. Upon being properly informed by Mr. Besong that such information was confidential and that he would not share the same, you informed him that the Hospital and / or Mr. Merrick were the subject of a "state investigation." Additionally, you told Mr. Besong that Mr. Merrick testified under oath falsely that he was at one time the Chief of Police of Point Park University. In fact, this never occurred, and is also a false and slanderous statement made by you with no basis in law or fact. Such a statement is a representation to Mr. Besong that the Hospital's Chief of Police committed perjury, which is a crime under Pennsylvania's criminal statutes. Such a false allegation is also slander per se under the laws of the Commonwealth of Pennsylvania.

The aforesaid allegations made by you are knowingly false, and slanderous and have no basis in law or fact. These allegations by you are being made with the specific intent to harm the good name and reputation of the Hospital, its Police Department, and its Chief of Police.

Additionally, your conduct under the circumstances may be a violation of the *Pennsylvania Private Detective Act* of 1953, and subject to review and possible prosecution by the Washington County District Attorney's Office.

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It is also the Hospital's understanding that you contacted Channel 4 News in Pittsburgh, and made false allegations to it about a pending law suit, in yet another effort to libel and slander the Hospital's good name and reputations and otherwise engage in the harassment of the Hospital for no legitimate purpose. This law suit does not involve you and there is no legitimate reason why you would be investigating the same or asking a news agency to investigate the same.

The purpose of this letter is to advise you to cease and desist immediately from making false, libelous and slanderous statements about the Hospital, its Police Chief, and its police department. The Hospital is also herewith demanding an immediate retraction from you of your statements to Mr. Besong and evidence that you have advised him in writing of the following:

1. That the Hospital is in fact not the subject of any state investigation and your statement to him that it was false.
2. That Mr. Merrick never testified under oath that he was at one time the Chief of Police of Point Park University, and that your statement to him that this occurred is also false.

If you refuse to provide such a written retraction, it will be presumed that you have willfully and intentionally made these false statements about the Hospital and its Police Chief and the Hospital will seek appropriate damages to the fullest extent provided by the law.

By way of a copy of this letter to John Nardi, Secretary of the Pennsylvania State Constables Association, we are advising him of your actions, and asking that the State Constables Association to investigate the same and take appropriate action to impose sanctions on you for your conduct. We assume the State Constables Association does not condone such conduct by its membership.

We are also copying Eugene A. Vattone, the Washington County District Attorney, and asking that he investigate this matter, and if appropriate take action against you for violating the *Private Detective Act* of 1953, since you do not have a license to conduct any investigation of the Hospital, its Chief of Police, or its Police Department, and your actions under the circumstances may be a violation of the law and the *Private Detective Act* of 1953.

Finally, your conduct under the circumstances also may be a violation of the State's Ethics Act since you are an elected public official. Accordingly, we will be filing a complaint with the State Ethics Commission about your conduct and requesting that it investigate the same and take appropriate sanctions against you.

If I do not receive the requested written retraction from you within five (5) business days from your receipt of this letter, including evidence that you have advised Mr. Besong that your statements set forth above to him were false, the Hospital will file a formal business libel and slander law suit against you for your actions, and take any other action against you permitted by the laws of the Commonwealth of Pennsylvania.

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I have also copied Chief Besong on this letter, so that he can confirm to me his receipt of the same, and to also advise him of the facts of your false allegations and that the Hospital and its Police Chief adamantly deny these allegations as being blatantly false.

Please direct all correspondence on this matter only to my attention.

Very truly yours



Phillip J. Binotto

cc: Washington County District Attorney, Eugene A. Vattone (via U.S. Mail: 1 S. Main St., #1003, Washington, PA 15301)

John Nardi, Secretary PA Constables Association (via U.S.mail: P.O. Box 501, Narberth, PA 19072)

Barbara McCullough, Vice President of Human Resources (via email: bmccullough@whs.org)

Bernard D. Merrick, MA, Chief of Police, Washington Health System (via email: bmerrick@whs.org)

Jeffrey D. Besong, Chief of Police, Point Park University (via U.S. Mail: Frontier Hall, 3rd Fl., 100 Wood St., Pittsburgh, PA 15222)

Jennifer Kirschler, Esq. (via email: jkirschler@whs.org)